

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Ted D. Ellis and Teresa Ellis,)	C/A No.: 9:19-cv-02163-RMG-MGB
)	
Plaintiffs,)	
)	
v.)	
)	
Cody C. Kirkman, Individually;)	
Amber Swinehammer,)	
Individually; Lindsey Gibson,)	
Individually; Cody C. Kirkman,)	
Amber Swinehammer, and)	
Lindsey Gibson, as Agents/)	
Officers of Town of Bluffton)	
Police Department; and Town of)	
Bluffton Police Department,)	
)	
Defendants.)	

TO: Arie Bax, Attorney for Plaintiffs

DEFENDANTS'
DESIGNATION OF EXPERT WITNESSES
F.R.C.P. 26(a)(2)(b)

The Defendants provide the following identification of expert witness expected to testify at the trial of this case and in supplementation of discovery responses:

1. Brian S. Batterton, Esq.
4640 Dallas Highway
Powder Springs, Georgia 30127

Brian S. Batterton, Esq. is a Major with the Cobb County Police Department. He obtained his Georgia Law Enforcement Certification in 1994 through the Georgia Peace Officer Standards and Training Council. He has been employed in the field of Law Enforcement since that date. Mr. Batterton holds a Juris Doctorate obtained in December

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1999 and was admitted to the Georgia Bar in 2000. He maintains active membership in the Georgia bar. He is a certified training instructor on law enforcement topics and completed the Use of Force Instructor Training program offered through Federal Law Enforcement Training. His additional qualifications and certifications are set forth in his Curriculum Vitae attached.

Major Batterton has examined pleadings, discovery, videos, news articles and records exchanged to date and will provide testimony, if called, regarding the agencies' compliance with standards for hiring, training and supervision, as well as the officers' compliance with training and protocol within the law enforcement community of the State of South Carolina upon the issues of training, arrest procedures, use of force, and standards of policing in the State of South Carolina. A summary of his preliminary opinions will be provided under separate cover. Upon completion of discovery, Major Batterton will issue a written report and/or affidavit containing his full opinions to a reasonable degree of certainty within the field of police procedure within the law enforcement community of the State of South Carolina. His Curriculum Vitae is attached as **Exhibit A**.

2. Dr. Paul Zorch
Coastal Carolina Medical Center
1000 Medical Center Dr
Hardeeville, SC 29927

Dr. Zorch will testify as to the history obtained, observations and medical treatment rendered Plaintiff Ted Ellis on the date of his August 3, 2017 arrest. Dr. Zorch will base his testimony and opinions on his specialty in family medicine.

3. Dr. Saied Khosrowpour
Coastal Carolina Medical Center
1000 Medical Center Dr
Hardeeville, SC 29927

Dr. Khosrowpour will testify as to the injuries suffered by Plaintiff Ted Ellis as a result of the subject incident, the medical treatment rendered as a result of those injuries, and his observations of the distress and suffering caused to Mr. Ellis during his encounters with him. Dr. Khosrowpour will base his testimony and opinions on his specialty in emergency medicine.

4. Kasie A. Moore NP
Coastal Carolina Medical Center
1000 Medical Center Dr
Hardeeville, SC 29927

Kasie A. Moore NP, if called, will testify as to the history obtained, observations and medical treatment rendered Plaintiff Ted Ellis on the date of his August 3, 2017 arrest. Ms.

Moore will base her testimony and opinions on her specialty in emergency medicine.

5. Amber Williamson, RN
Coastal Carolina Medical Center
1000 Medical Center Dr
Hardeeville, SC 29927

Registered Nurse Williamson, if called, will testify as to the history obtained, observations and medical treatment rendered Plaintiff Ted Ellis on the date of his August 3, 2017 arrest. Nurse Moore will base her testimony and opinions on her specialty in nursing.

If called, medical experts will testify as to their treatment and findings while examining Plaintiff Ted Ellis at Coastal Carolina Medical Center. All medical records were provided by Plaintiff through opposing counsel. This disclosure is made to notify all interested parties and counsel that Defendants may offer factual and expert testimony from Ted Ellis's medical treatment providers regarding injuries diagnosed, causation of same, treatment for same, prognosis of same and all other particulars set forth in his medical records.

Defendants will supplement records and reports as they become available as discovery continues.

Respectfully Submitted,

LAW OFFICE OF CHRISTY L. SCOTT, LLC

By: s/Christy L. Scott
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ATTORNEYS FOR DEFENDANTS

Cody C. Kirkman, Individually and as an Officer of Town of Bluffton Police Department; Amber Swinehamer, (mistakenly spelled Swinehammer), Individually and as an Officer of Town of Bluffton Police Department; former Bluffton police officer Lindsey Gibson, sued individually and as a former police officer of the Bluffton Police Department and the Town of Bluffton Police Department

September 6, 2020

Walterboro, South Carolina

Brian S. Batterton

Attorney at Law
 4640 Dallas Highway
 Powder Springs, Georgia 30127
 Phone 678-230-3248
 Email bsbatterton@comcast.net

PROFILE

I am currently an attorney and a Major with the Cobb County Police Department. I began my career in law enforcement in 1994 with the Georgia State University Police Department as a campus police officer. In 1995, I began work as a patrolman with the Cobb County Police Department. While I worked as a patrolman on the overnight shift, I attended John Marshall Law School during the evenings beginning in 1996 and graduated Magna Cum Laude in December of 1999. In February 2000 I sat for the Georgia Bar Examination and received a passing score. I then began practicing real estate law as secondary employment. A desire to provide my community with professional police services has motivated me to continue my career in law enforcement.

Shortly after completion of law school, I was appointed to Detective in the Criminal Investigations Unit. My primary responsibility was to investigate various felony and misdemeanor crimes against property. In addition, I also participated in "plain clothes stake-out" details in response to various crime patterns that would occur in my assigned area.

After gaining experience in various felony and misdemeanor investigations, I was assigned to the Training Unit and promoted to the rank of Corporal. At the training unit, I was the immediate supervisor to the police recruit class. The unit conducted two twenty-one week recruit classes per year. I was responsible for teaching Criminal Law, Criminal Procedure, Liability, and a mock trial class. I also assisted in instruction of law enforcement skills such as traffic stops, felony response and building clearing. I was also responsible for legal and liability training to all department members. I taught annual in-service classes on criminal law, forced entry into private premises, legality of arrest of suspects while in their residences, exigent circumstances, levels of officer citizen encounters, consent searches, law enforcement response to the mentally ill and involuntary committals, state civil liability and federal Constitutional liability.

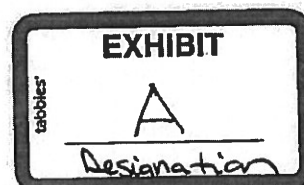
In November 2003, I was promoted to Sergeant in the Uniform Bureau and assigned to supervise a squad of approximately fifteen officers. This involved direct supervision and review of officers actions taken while responding to crimes and enforcing various laws. This included organization of the initial police response to barricaded suspects, warrant service, and other high risk situations. I supervised vehicle pursuits and conducted post pursuit reviews to ensure that proper police procedures have been followed. I responded to crime scenes and directed investigations that were undertaken by uniformed officers. I also reviewed use of force incidents to determine whether department policies and proper police procedures were followed. In addition to these tasks, I continued to teach the various aforementioned classes at the training center as requested and have also been requested to teach at other agencies such as the North Central Georgia Police Academy and the Gwinnett County Fire Investigators Course. Lastly, I have been retained in the capacity of an expert / consultant on an excessive force and false arrest case in Georgia.

In January 2006, I was assigned to the Office of the Chief of Police to act as a Legal Officer. Details of my current duties are listed below. While in this assignment, I was promoted to the rank of Lieutenant in May of 2007.

In December of 2009, I was appointed to the rank of Captain and placed in command of the Administrative Services Bureau. This command includes units such as Records, Evidence, Public Information Officers, Accreditation, Special Projects, and Permits. I am also still performing the duty of Legal Officer to the Chief of Police.

In July of 2012, I transferred to the Cobb County Department of Public Safety Training Unit where I currently serve as the Director of the Police Academy for the Cobb County Police Department.

In February 2016, I was appointed to the rank of Major and placed in Command of Precinct V. Precinct V, is a full service law enforcement precinct which encompasses both uniform patrol and detectives.



LAW ENFORCEMENT EXPERIENCE

Cobb County Police Department, Major, Precinct V, February 2016 to Present

- Oversees a full service police precinct which includes both uniform patrol officers and detectives.
- Reviews Uses of Force
- Reviews Vehicle Pursuits
- Supervises investigations regarding misconduct
- Supervises and reviews citizen complaints
- Represents the department at various function and community events
- All other duties required to oversee Precinct operations

Cobb County Department of Public Safety, Police Academy Director July 2012 to Feb 2016

- Oversees all training for the Cobb County Police Department to include Basic Mandate Training, Advanced Training, Annual Training, Emergency Vehicle Operations Training, Use of Force Training and Firearms Training.
- Acts as the primary department legal instructor for subjects to include legal aspects of search and seizure, interrogations, use of force, emergency vehicle operations and pursuits and various other legal topics.
- Reviews all cases involving Use of Force for policy compliance, law compliance and training needs.
- Reviews all vehicle pursuits for policy compliance, law compliance and training needs.
- Continues to act as Legal Officer for the Chief of Police. This involves acting as a Liaison with between the department and the county attorney's office; advising the chief regarding Internal Affairs investigations, pursuits, contracts, memorandum of understanding between the department and other agencies, disciplinary matters, policy, and other legal duties that arise.

Cobb County Police Department, Captain, Admin. Bureau Commander December 2009 to July 2012

- Acts as Legal Officer for the Chief of Police. This involves acting as a Liaison with between the department and the county attorney's office; advising the chief regarding Internal Affairs investigations, pursuits, contracts, memorandum of understanding between the department and other agencies, disciplinary matters, policy, and other legal duties that arise. It also involves the duties listed below in the "chief's office" assignment.
- Commands the following units within the police department: Records, Evidence, Public Information Officers, Accreditation, Special Projects, and Permits.
- While not related to the Cobb County Police Department, I teach legal subjects for the Public Agency Training Council (PATC). Topics that I teach include policy that relates to high risk, critical tasks (i.e.: search and seizure, emergency vehicle operation, use of force, etc...), and school law. I also write various legal articles for PATC.

Cobb County Police Department, Chief's Office

January 2006 to December 2009

- Acts as a legal advisor to the Chief of Police.
- Researches legal issues relating to the department at the request of the Chief.
- Reviews legal issues that relate to department policy and makes recommendations to the Chief.
- Reviews discipline for legal sufficiency at the request of the Chief.
- Prepares legal updates for the police department.
- Responds to legal questions from supervisors in the field.
- Teaches criminal law and both advanced and basic criminal procedure to members of the department and police academy recruits.
- Teaches annual training classes on various legal topics to include procedures for dealing with the mentally ill, search and seizure, and liability. Total teaching hours per year total approximately 325 hours.
- Acts as a liaison between the department and the District Attorney's Office, the Solicitor's Office, and the County Attorney's Office.
- Reviews and responds to citizen complaints.

- Supervises the department Public Information Officers.

Cobb County Police Department

1995 to Present

(Metro Atlanta police agency with approximately 600 sworn officers and a population of approximately 700,000 (as of 2010).)

Sergeant, Uniform Patrol

November 2003 to Present

- Supervise a squad of approximately fifteen uniform police officers as they perform uniform patrol duties.
- Coordinate the initial uniform response to barricaded suspect and high risk warrant service.
- Review and assess officer's "Use of Force Statistical Reports."
- Supervise vehicle pursuits.
- Review legal and policy issues regarding vehicle pursuits.
- Respond to and supervise police response to crimes in progress.
- Respond to and supervise uniform officers that respond to serious crime scenes such as homicides and fatality traffic accidents.
- Review training status reports given by field training officers to police recruits.
- Prepare yearly performance appraisals of police officers under my supervision.
- Conduct investigations relating to allegations of police officer misconduct and recommend discipline and training when violations are sustained.
- Conduct "in-service" training for police officers under my supervision.
- Teach the legal topics mentioned below.

Corporal, Training Unit

September 2001 to Nov 2003

- Instructed police recruits, uniform officers, detectives and command staff in the topic of Criminal Procedure (Fourth, Fifth, and Sixth Amendments). Topics covered include law of arrest with and without warrants, searches of persons, personal property, and homes, plain view, plain feel, search warrants, levels of officer/citizen encounters, warrantless searches, vehicle impounds, Miranda and custodial interrogations, and Sixth Amendment right to counsel.
- Instructed police recruits, uniform officers, detectives and command staff in the topic of Criminal Law. Areas of Criminal Law encompassed included elements of various crimes, defenses, and use of non-deadly and deadly force.
- Instructed police recruits, uniform officers, detectives and command staff in the topic of Traffic Law. Areas of traffic law encompassed elements of various traffic offenses, D.U.I., implied consent, and offenses for which a custodial arrest may be made.
- Instructed police recruits in the topic of police pursuits, including the Precision Immobilization Technique (P.I.T.), "Stop Sticks", Box-In, and the General Electric "I-Sim" Driving Simulator. Also instructed on departmental policy on operation of police vehicles.
- Instructed police recruits on the topic of traffic stops. Areas of traffic stops included officer safety, managing vehicle occupants, field interviews, unknown risk traffic stops, and high risk/felony traffic stops.
- Instructed police recruits on the topic of building clearing. Areas of building clearing include unknown risk building clearing, high risk building clearing, clearing techniques, and managing occupants/suspects during building clearing.
- Taught the "Scenario and Mock Trial" for police recruits. This is a series of role-play scenarios that police officers will encounter. Recruits are trained and evaluated in handling these scenarios and then are required to write an accurate report about the incident. Recruits are then trained and evaluated during a mock trial where they must testify to their actions and respond appropriately to cross-examination.
- Prepared Legal Updates for the department on changes in substantive law and case law.
- Answered questions from officers and supervisors about situations that are developing in the field.
- Updated the County Ordinance Code to ordinances that relate to the police department.
- Managed the Police Department's Internship Program.

- Taught law related topics to high school students involved in the Police Explorer Program.
- Supervised approximately twenty police recruits as they attended the police academy.

Detective, Crimes Against Property

August 2000 to September 2001

- Acted in the capacity of primary case agent for investigations of both felony and misdemeanor crimes against property such as burglary, criminal damage to property, theft, forgery, financial transaction card fraud and other crimes against property.
- Acted in a "plain clothes" capacity on a stake out unit responsible for detecting various crimes in progress.
- Related duties included interviewing both suspects and witnesses, processing crime scenes, securing and executing search and arrest warrants, testifying in court, and collection and storage of evidence and preparing detailed reports on various investigations.

Officer, Uniform Patrol

July 1995 to August 2000

- Responded to emergency calls for service,
- Enforced state law to include traffic law, crimes against persons, domestic violence, crimes against property, and violations of the Georgia Controlled Substance Act, and investigations of motor vehicle collisions.
- Interviewed suspects, victims, and witnesses.
- Wrote detailed reports on the above incidents.
- Responded to emergencies in emergency mode.
- Initiated pursuits and participated in pursuits as a back up officer.

Georgia State University Police Department, Officer, Uniform Patrol

September 1994 to June 1995

- Responded to emergency calls for service, enforced state law, conducted the initial investigation of crimes against persons and property, directed traffic, and provided security for the campus.
- Related duties included interviewing victims, suspects and witnesses, interaction with the students and faculty of the University and writing detailed reports.

LEGAL EXPERIENCE

Perrie & Cole, LLC, Contract Attorney

March 2005 to 2006

- Perform REO residential closings.
- Review title examination to ensure clear title.
- Explain various loan documents in conjunction with both refinance transactions and purchases.
- Review closing instructions to ensure that all lender requirements are satisfied.

Brian S. Batterton, P.C., Sole Practitioner

October 2003 to 2006

- Provide legal instruction to Police Departments.
- Perform residential real estate closings on a contract basis to various law firms.
- Represent executors of estates during the probate process.
- Draft both simple Wills and complex Wills that contemplate various estate tax issues of clients.
- Assist clients in the formation of business entities.

Morris & Schneider, P.C., Contract Attorney

March 2003 to September 2003

- Performed real estate closings as a contract attorney.
- Examined and reviewed title to real property to ensure property was free of encumbrances.
- Explained various loan documents.
- Conducted both refinance transactions and purchases.
- Reviewed closing instructions to ensure that all lender requirements were satisfied.
- Reviewed closing files after closing, and recorded deeds, riders and subordination agreements.

Robert P. Copeland, P.C., Contract Attorney

January 2001 to 2003

- Performed real estate closings.
- Reviewed title to ensure property is free from encumbrances.
- Explained various loan documents.
- Conducted both purchase of real property and refinance transactions.

MILITARY EXPERIENCE

- Georgia Army National Guard **1993 to 2001**
- Non-Commissioned Officer (Corporal)
- Military Occupational Specialty: 11B (Infantry), (Airborne)
- Units: NCO (non-qualified) in Co. A 1/20th S.F.G. (Alabama National Guard)
-NCO in 202nd Explosive Ordnance Disposal Detachment.

EDUCATION

- | | | |
|--|--|-------------|
| John Marshall Law School | Juris Doctor | 1999 |
| <ul style="list-style-type: none"> • Honors : Graduated Magna Cum Laude • West Publisher's Award for Academic Excellence | | |
| Georgia State University | Bachelor of Science, Criminal Justice | 1992 |
| <ul style="list-style-type: none"> • Membership: Sigma Nu Fraternity | | |

CERTIFICATIONS

- | | |
|--|----------------|
| Valor For Blue Use of Force Trainer | August 2014 |
| Taser Instructor | January 2013 |
| Use of Force Instructor, Federal Law Enforcement Training Center | March 2012 |
| State Bar of Georgia, Attorney | June 2000 |
| Instructor Certification, Peace Officer Standards and Training (P.O.S.T) | November 2001 |
| Pursuit Driver (P.I.T.), P.O.S.T. | September 2002 |
| "Stop Stick" Instructor Certified | May 2003 |
| Field Training Officer, P.O.S.T. | September 2000 |
| Radar Operator Certification, P.O.S.T. | July 1997 |
| Standardized Field Sobriety Test, NHTSA | October 2001 |
| Basic Law Enforcement Certification | October 1994 |